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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/775,458	02/10/2004	John Scott Heuvel	049220-9006-00	1353
23409 7590 09/04/2008 MICHAEL BEST & FRIEDRICH LLP 100 E WISCONSIN AVENUE Suite 3300 MILWAUKEE, WI 53202				
EXAMINER				
NGUYEN, CHI Q				
ART UNIT		PAPER NUMBER		
3635				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/775,458

Applicant(s)

HEUVEL ET AL.

Examiner

CHI Q. NGUYEN

Art Unit

3635

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 June 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 9-21 is/are rejected.
- 7) ☒ Claim(s) 7 and 8 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

This Office action is in response to applicant's amendment filed on 6/18/2008.

Status of Claims

Claims 1-21 are pending.

Upon further consideration, the previously stated allowable claim 21 is being withdrawn and with a new prior art and rejections are following:

Drawings

The drawings are objected to under 37 CFR 1.83(a) because they fail to show weldments 70 as described in the specification in page 7, line 23. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are

not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

Claim 21 is objected to because of the following informalities: a citation "the distance" does not have antecedent basis. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 6 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by US Pat. No. 3,958,954 to Ehlenbeck.

Claim 6:

Ehlenbeck discloses in Figs. 1-5, a pre-formed concrete section 10 comprising: a deck 12 having: a first side, a second side opposite the first side, and a width extending between the first and second sides; a plurality of weldments 20 connected to and spaced along the first side (col. 3, lines 65-66); each of the plurality of weldments 20 including a plurality of arms 26 embedded in the first side; a top surface, a bottom surface opposite the top surface, and a thickness extending between the top and bottom surfaces; a first leg 14 and a second leg 16 projecting from the bottom surface; the deck further comprising: a first outer portion (see Fig. 1) extending generally from

the first leg 14 toward the first side, the thickness of the deck generally decreasing as the first outer portion extends outwardly from the first leg toward the first side; and a second outer portion (on opposite side) extending generally from the second leg 16 toward the second side, the thickness of the deck generally decreasing as the second outer portion extends outwardly from the second leg toward the second side (see Fig. 1).

Claim 9:

Wherein the thickness of the deck decreases at a relatively constant rate as the first and second outer portions extend outwardly from the first and second leg, respectively, toward the first and second side, respectively (see Fig. 1).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Pat. No. 3,958,954 to Ehlenbeck.

Claims 1-4:

Ehlenbeck discloses in Figs. 1-2, a pre-formed concrete section 10 comprising a deck 12 including a first side, a second side opposite the first side, and a width extending between the first and second sides, a plurality of weldments 20 connected to

and spaced along the first side, each of the plurality of weldments 20 including a plurality of arms 26 embedded in the first side, a top surface, a bottom surface opposite the top surface, and a thickness extending between the top and bottom surfaces, and a first leg and a second leg projecting from the bottom surface, a distance in a direction substantially parallel to the deck. Ehlenbeck discloses the basic structures for the concrete section as stated but does not specifically disclose a distance from the center of the first leg to the center of the second leg being more than two, three, four, or more than four times greater than the distance from the first side to the center of the first leg. However, this feature would have been a matter of obvious design choice to one of ordinary skill in the art at the time the invention was made for desirable application. Furthermore, applicant has not disclosed the criticality of this feature.

Claim 5:

Ehlenbeck discloses the basic structures for the concrete section as stated but does not specifically disclose a distance between the center of the first leg and the center of the second leg is more than half the width of the deck. However, this feature would have been a matter of obvious design choice to one of ordinary skill in the art at the time the invention was made for pathway clearance purposes. Furthermore, applicant has not disclosed the criticality of this feature.

Claims 10-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 3,958,954 to Ehlenbeck.

Claims 10-20:

Ehlenbeck discloses in Figs. 1-5, a pre-formed concrete section 10 comprising: a deck 12 having: a first side, a second side opposite the first side, and a width extending between the first and second sides; a plurality of weldments 20 connected to and spaced along the first side (col. 3, lines 65-66); each of the plurality of weldments 20 including a plurality of arms 26 embedded in the first side; a top surface, a bottom surface opposite the top surface, and a thickness extending between the top and bottom surfaces; a first leg 14 and a second leg 16 projecting from the bottom surface; the deck further comprising: a first outer portion (see Fig. 1) extending generally from the first leg 14 toward the first side, the thickness of the deck generally decreasing as the first outer portion extends outwardly from the first leg toward the first side; and a second outer portion (on opposite side) extending generally from the second leg 16 toward the second side, the thickness of the deck generally decreasing as the second outer portion extends outwardly from the second leg toward the second side (see Fig. 1).

Ehlenbeck discloses the basic structures as stated but does not expressly disclose wherein the thickness of the deck at the first side is less than the thickness of the deck at the central portion, wherein the width of the deck is between about 17 feet and about 19 feet, and wherein the width of the deck is about 18 feet, wherein the distance, in a direction substantially parallel to the deck, from the center of the first leg to the center of the second leg is more than two, three, four or more than half the width of the deck. However, this feature would have been a matter of obvious design choice to one of ordinary skill in the art at the time the invention was made to have such

variable thickness, width, and a spacing distance between a center of the first leg to a center of the second is more than two, three, four or more than half the width of the deck for desirable application. Furthermore, applicant has not disclosed the criticality of this feature.

Claim 21:

Ehlenbeck discloses a concrete section assembly comprising at least two pre-formed concrete sections 12(Fig. 5), each section being a unitary construction and comprising a deck having: a first side, a second side opposite the first side, and a width extending between the first and second sides; a plurality of weldments 20 connected to and spaced along the first side (col. 3, lines 65-66); a top surface, a bottom surface opposite the top surface, and a thickness extending between the top and bottom surfaces; a first leg 14 and a second leg 16 projecting from the bottom surface; a first outer portion extending generally from the first leg 14 toward the first side, the thickness of the deck generally decreasing as the first outer portion extends outwardly from the first leg toward the first side; and a second outer portion (on opposite side) extending generally from the second leg 16 toward the second side, the thickness of the deck generally decreasing as the second outer portion extends outwardly from the second leg toward the second side; wherein the at least two sections 12 are connected to one another via their weldments 20 with the deck of each section being substantially co-planar and the second side of the deck of a first section.

Ehlenbeck discloses the basic structures for a concrete section as stated but does not disclose expressly a distance from the center of the first leg to the second leg

of the first section is greater than the distance from the center of the second leg of the first section to the center of the first leg of the second section adjoining the first section. However, this feature would have been a matter of obvious design choice to one of ordinary skill in the art at the time the invention was made to have such the outer portions are shorter than a distance between the first and second legs thus when the two sections assembly together would defined a distance from the center of the first leg to the second leg of the first section is greater than the distance from the center of the second leg of the first section to the center of the first leg of the second section adjoining the first section in order to stack up/transport the concrete sections.

Allowable Subject Matter

Claims 7-8 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments with respect to claims 1-21 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Chi Q. Nguyen whose telephone number is (571) 272-6847. The examiner can normally be reached on Monday-Friday from 7:30 am-4:00 pm.

If attempt to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached at (571) 272-6777.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pairedirect.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197.

/C. Q. N./
Examiner, Art Unit 3635

/DAVID DUNN/
Supervisory Patent Examiner, Art Unit 3636